

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 29703 of 2006(J)

PETITIONER:

**P.P.ASHARAF ALI,
M/S.ZENITH AGENCIES, 16/882,
ANNIE HALL ROAD, CALICUT-02.**

**BY ADV. SRI.S.ANANTHAKRISHNAN,
SRI.SHYAM PADMAN.**

RESPONDENTS:

- 1. THE SUB-INSPECTOR OF POLICE,
TOWN POLICE STATION, KOZHIKODE.**
- 2. KOZHIKODE TALUK KAYATTU-IRAKKU
THOZHILALI UNION, 13/784-1,
KILIPARAMBA, ANNI HALL ROAD, CALICUT.**
- 3. KERALA HEAD LOAD WORKERS WELFARE BOARD,
KOZHIKODE COMMITTEE,
V.K.BUILDING, CALICUT.**
- 4. HEAD LOAD WORKERS UNION, (C.I.T.U.),
REP. BY ITS SECRETARY,
ANNI HALL ROAD, CALICUT.**
- 5. HEAD LOAD WORKERS UNION, (I.N.T.U.C.),
REP. BY ITS SECRETARY,
CHEROOTY ROAD, NEAR AMBASSADOR LODGE,
KOZHIKODE DISTRICT.**

W.P.(C). NO.29703/2006:

**6. HEAD LOAD WORKERS UNION, (A.I.T.U.C.),
REP. BY ITS SECRETARY,
KRISHNA PILLA MANDIRAM,
PAVAMANI ROAD, KOZHIKODE DISTRICT.**

**7. SWATHANTRA THOZHILALI UNION (S.T.U.),
KURIAL LANE, CALICUT-32.**

***ADDL.R8. LOADING, UNLOADING AND GENERAL WORKERS
UNION (NLU), KOZHIKODE DISTRICT COMMITTEE,
COURT ROAD, KOZHIKODE-1, REPRESENTED BY
ITS SECRETARY, K.P. ABDUL KALAM.**

***IS IMPEADED ADDL.R8. AS PER ORDER DTD. 07/03/07
IN I.A. 3247/07.**

**BY ADV. SRI.NIRMAL.S,
SRI.H.B.SHENOY,
SRI.B.ASHOK SHENOY,
SMT.LAKSHMI B.SHENOY,
SRI.ABU MATHEW,
SRI.SOBHAN GEORGE,
GOVT. PLEADER SRI. SALIM.P.A.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

prv.

W.P.(C). NO.29703/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DT. 30/10/2006 PASSED BY THE ASST. LABOUR OFFICER DTD. 30/10/2006.

EXT.P.2; COPY OF THE IDENTITY CARD ISSUED TO MR. A. SAITHUFAIZAL BY THE ASST. LABOUR OFFICER DTD. 30/10/2006.

EXT.P.3: COPY OF THE IDENTITY CARD ISSUED TO MR. ABDUL RASIQ.P. BY THE ASST. LABOUR OFFICER DTD. 30/10/2006.

EXT.P.4: COPY OF THE IDENTITY CARD ISSUED TO MR. ALI.M. BY THE ASST. LABOUR OFFICER DTD. 30/10/2006.

EXT.P.5: COPY OF THE IDENTITY CARD ISSUED TO MR. ABUBECKER SIDHSIDHIQU BY THE ASST. LABOUR OFFICER DTD. 30/10/2006.

EXT.P.6: COPY OF THE IDENTITY CARD ISSUED TO MR. MIKDAD.T.C. BY THE ASST. LABOUR OFFICER DTD. 30/10/2006.

EXT.P.7: COPY OF THE REPRESENTATION DTD. 04/11/2006 SUBMITTED BEFORE THE R.1.

EXT.P.8: COPY OF THE IDENTITY CARD ISSUED TO BY THE ASST. LABOUR OFFICER TO MR. MIKDAD.T.C.

EXT.P.9: COPY OF THE IDENTITY CARD ISSUED TO BY THE ASST. LABOUR OFFICER ABUBECKER SIDHIQUE.

EXT.P.10: COPY OF THE IDENTITY CARD ISSUED TO BY THE ASST. LABOUR OFICER SYED FAIZAL AMEER.A.

RESPONDENT'S EXHIBITS:

EXT.R4.(A) SERIES: COPY OF THE RECEIPTS ISSUED BY THE AGENT A.M. NAJEEB FOR AND BEHALF OF THE ZENITH AGENCIES.

EXT.R8.A: COPY OF THE IDENTITY CARD NO. 11/04/17/97 DTD. NIL ISSUED BY ASSISTANT LABOUR OFFICER, KOZHIKODE TO SHRI C.K. SALIM.

W.P.(C). NO.29703/2006:

EXT.R8.B: COPY OF THE IDENTITY CARD NO. 11/04/96/90 DTD. NIL ISSUED BY ASSISTANT LABOUR OFFICER, KOZHIKODE TO SHRI. C.V. ALI.

EXT.R8.C: COPY OF THE REPRESENTATION DTD. 26/02/2007 SUBMITTED BY ADDL. RESPONDENT NO. 8 TO ASSISTANT LABOUR OFFICER, KOZHIKODE.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, J.

W.P.(C) NO. 29703 OF 2006-J

Dated 17th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is a businessman in Calicut. He is having a godown in Annie Hall road. He is having five headload workers. He has recently opened a godown in Silk Street, Calicut. The five workmen attached to the godown in Annie Hall road were having registration under the Kerala Headload Workers' Rules. The petitioner transferred three of them to the newly opened godown in the Silk Street. Alleging that the members of respondents 4 to 7 are causing obstruction to the loading and unloading work by the regular workmen in the new godown, he moved for police protection. Since the police did not extend the desired help, this writ petition was filed, seeking appropriate reliefs.

2. The additional 8th respondent, which is also a trade union, has got itself impleaded in this writ petition. The unions would submit that the workmen under them were doing all the loading and unloading work of the

petitioner in the godown in Silk Street. There is no dispute between them and the petitioner. So, the writ petition is unnecessary. The learned counsel for the petitioner would submit that after engaging the regular workmen, if additional work is available, the same will be done, engaging the workmen from the local pool of the Headload Workers Welfare Board.

3. The area is a scheme covered area. Even then, the petitioner is entitled to engage workmen, who have got registration under the Headload Workers' Rules to do the loading and unloading work in his godown. If any physical obstruction is offered to the same, the petitioner may inform the S.I of Police, the 1st respondent herein. In that event the said respondent will ensure that the unlawful obstruction is removed. But, additional work, if any, available, which could not be carried out by the three registered workmen, shall be done engaging the workmen from the local pool. Further, if the unions have a case there is denial of work, which their members were hitherto doing, they can move the statutory authorities to establish that claim. The protection ordered by this judgment will be

subject to any orders passed by the statutory authorities.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/